



**CALIFORNIA POLLUTION CONTROL FINANCING
AUTHORITY
TAX-EXEMPT BOND FINANCING PROGRAM**



CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 44500-44563

44500. This division may be cited as the California Pollution Control Financing Authority Act.

44501. (a) The Legislature hereby finds and declares that it is necessary and essential that the state, in cooperation with the federal government, use all practical means and measures to control, remediate, and eliminate pollution hazards to the environment. The Legislature further finds and determines that industry within this state utilizes processes and facilities that have significant environmental impact. These processes and facilities shall be modified and supplemented to meet the quality standards established and to be established for the control and remediation of environmental pollution. Industry needs and requires new methods to finance the capital outlays required for the devices, equipment, and facilities utilized in pollution control if they are to rapidly comply with the quality standards established by the state and federal governments, and if they are to rapidly remediate contaminated properties so that those properties can be reused for economically beneficial purposes.

(b) The Legislature also finds and declares that the disposal of waste products by such current methods as incineration and landfill pollute the environment by degrading air and water quality. The Legislature further finds that in order to reduce the environmental pollution that currently occurs in connection with the disposal of waste products, there is a need to develop new and alternative processes and facilities that provide for the disposal of those waste products in ways that prevent or reduce environmental degradation. The Legislature also finds that those new and alternative processes and facilities include those that recover resources and energy from waste products. The Legislature further finds and declares that in order to prevent further environmental degradation resulting from contamination caused by the release of waste products and hazardous materials, there is a need to encourage the remediation of that contamination of properties with the potential for economically beneficial reuse.

(c) The alternate method of financing provided in this division is in the public interest and serves a public purpose and will promote the health, welfare, and safety of the citizens of the State of California.

(d) The Legislature also finds and declares that California is expected to undergo tremendous population growth by the addition of an estimated five million new jobs, 12 million new residents, and over four million new households over the next 20 years. This constitutes more rapid growth than California experienced during the 1950's, 1960's, and 1970's, combined. The Legislature also finds that as a result of this unprecedented growth, the long-term environmental quality of

the state depends, in part, on altering current growth patterns by adopting policies and programs that promote new forms of sustainable development and that will help reduce pollution and the degradation of the environment. The Legislature also finds that a key element of sustainable development is infill development and the revitalization of existing communities. Sustainable development will result in the remediation of brownfields, reduce traffic and auto pollution, and help preserve open spaces. The Legislature also finds that many communities in California do not have the resources or expertise to identify and compete for state, federal, or private assistance in order to develop and implement environmentally sensitive growth policies and programs for economically struggling neighborhoods. The Legislature further finds and declares that assisting economically distressed counties and cities to develop and implement sustainable and environmentally sensitive growth policies and programs that increase the utilization of unproductive properties within existing communities will help reduce environmental hazards created by brownfields and traffic congestion, while aiding in the revitalization of economically struggling neighborhoods and the preservation of open space at the urban edges. The grant and loan program provided in this division is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the citizens of the State of California.

(e) (1) The Legislature also finds and declares that real property contaminated with hazardous substances is a continuing blight on communities. Estimates suggest there are between 67,000 and 119,000 contaminated sites, commonly referred to as "brownfields," throughout the state. Located in existing communities, many of these sites are abandoned, idle, or underutilized due to a combination of factors, including legal liability concerns, regulatory issues, and the costs of pollution cleanup. Additionally, many of the undeveloped brownfields in the state are located within communities with depressed land values and pressing economic need, communities often characterized by a lack of capital investment. The remediation and development of brownfields is an important component of revitalizing existing communities and supporting sustainable growth patterns. While remediation and development activities should focus on brownfield sites that, although contaminated, have the potential for economically beneficial reuse, there currently exist few, if any, sources for financing the assessment, planning, and reporting activities that are the necessary first steps toward determining whether a site has the potential for economically beneficial reuse.

(2) The Legislature finds and declares that the California Pollution Control Financing Authority should work in conjunction with public and private sector entities, including, but not limited to, cities, counties, school districts, redevelopment agencies, and financial institutions, to assist in financing, through loans, the cost of performing or obtaining site assessments, remedial action plans technical assistance, and, reports, and where it is determined that a site has the potential for economically beneficial reuse, the cleanup, remediation, or development of brownfield sites. The loan program provided by this division is in the public interest, serves a public purpose, and will promote the health,

welfare, and safety of the citizens of the State of California. 44502. It is the purpose of this division to carry out and make effective the findings of the Legislature and to that end to do all of the following, to the mutual benefit of the people of the state and to protect their health and welfare:

(a) To provide industry within the state, irrespective of company size, with an alternative method of financing in providing, enlarging, and establishing pollution control facilities that are needed to accomplish the purposes of this division.

(b) To assist economically distressed counties and cities to develop and implement growth policies and programs that reduce pollution hazards and the degradation of the environment or promote infill development.

(c) To assist with the financing of the costs of assessment, remedial planning and reporting, technical assistance, and the cleanup, remediation, or development of brownfield sites, or other similar or related costs.

44503. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

44504. "Authority" means the California Pollution Control Financing Authority established pursuant to Section 44515 and any board, commission, department, or officer succeeding to the functions thereof or to whom the powers conferred upon the authority by this division shall be given by law.

44504.1. "Brownfield site" means a real estate parcel or improvements located on the parcel, or both that parcel and the improvements, which is abandoned, idled, or underused, due to real or perceived environmental contamination, including, but not limited to, soil or groundwater contamination, the presence of underground storage tanks, or the presence of asbestos or lead paint on the parcel or in the improvements located on the parcel, which after assessment and planning, is determined to have a reasonable potential for economically beneficial reuse.

44505. "Cost" as applied to a project or portion thereof financed under the provisions of this division embraced all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period after completion of such construction as determined by the authority, provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of architectural, engineering, financial and legal services, plans, specifications, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing of any project.

44506. "Participating party" means any person, company, corporation, partnership, firm, or other entity or group of entities engaged in operations within this state that requires financing pursuant to the terms of this division to aid and assist in the control, remediation, or elimination of pollution of the environment of the state.

44507. "Pollution" means an alteration of the quality of the environment of the state and shall be determined by the various standards prescribed from time to time by this state, the federal government, or any agency, department, or political subdivision of this state or the federal government, and may include, but is not limited to, earth, air, or water pollution, pollution caused by solid or hazardous waste disposal, thermal pollution, radiation contamination, the release of hazardous materials, or noise pollution. Pollution also includes, but is not limited to, the contamination of soil or groundwater resulting from the release of hazardous materials, as defined in Section 25260, or the presence of asbestos or lead paint, at sites with a reasonable potential for economically beneficial reuse.

44508. (a) "Project" and "pollution control facility," respectively, mean any land, building, improvement thereto, work, property or structure, real or personal, providing or designed to provide for the control, reduction, abatement, elimination, remediation, or prevention of pollution, including, but not limited to, hydrostatic control facilities, dust collectors, smoke bags, settling ponds, filtration plants, sewage disposal facilities, garbage disposal facilities, recycling facilities, dumps, filling grounds, chlorination ponds, treatment works, water utility property, soil excavation and removal, construction, operation, and maintenance of systems that extract, contain, or treat groundwater, soil vapor, gas, or leachate, and all other structures, systems, or facilities now or hereafter developed or useful in the control of pollution of any type or character, including any structure, equipment, or other facilities for the purpose of the purchase, production, distribution, or sale of water, or of reducing, treating, neutralizing, or cooling the temperature of any liquid, gaseous, or solid or hazardous waste substance or discharge resulting from the process of manufacture, industry, or commerce, or from the development, processing, or recovery of any natural resource or the generation of electricity, steam heat, or manufactured gas, together with the recovery, treatment, neutralizing, stabilizing, or cooling equipment, facilities, plants, or structures necessary to reduce, control, remediate, or eliminate pollution, and any and all facilities which may hereafter be developed through science, study, and investigation to aid and assist in the control of pollution or the removal or treatment of any substance that might otherwise cause or contribute to pollution, and including the use of renewable energy resource devices or the development of an energy conservation program where that action is designed to reduce onsite emissions or pollutants.

(b) "Project" also means payment by a party for the party's share of the cost of remediation of pollution at a contaminated site for which the party is a de minimis

or de micromis responsible party, and the party has been accorded that status in an expedited final settlement or other settlement with the United States Environmental Protection Agency, reached in accordance with subsection (g) of Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) and the regulations and guidance issued by the United States Environmental Protection Agency pursuant to that act.

44509. "Public agency" means any state agency, board, or commission, any county, city and county, city, regional agency, public district, or other political subdivision.

44510. "Revenues" means all rents, receipts, purchase payments and all other income or receipts derived by the authority from the sale, lease, or other disposition of pollution control facilities and any income or revenue derived from the investment of any money in any fund or account of the authority.

44511. "Renewable energy resource device" means any device, or any combination of devices, which produces heat, process heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to such uses, which do not expend or use fossil or nuclear fuels except when used for pumps, fans, or other minor controls.

44512. "Energy conservation program" means any program which utilizes techniques or devices including, but not limited to, cogeneration, waste heat recovery systems, efficient lighting systems, and energy efficiency improvements to industrial processes, which are primarily intended to reduce energy consumption.

44515. There is in the state government the California Pollution Control Financing Authority. The authority constitutes a public instrumentality and a political subdivision of the State of California, and the exercise by the authority of the powers conferred by this division shall be deemed and held to be the performance of an essential public function. The authority shall consist of three members: the Director of Finance, the State Treasurer, and the State Controller. The Director of Finance may designate a deputy or clerk in his agency to act for him and represent him at all meetings of the authority. The first meeting of the authority shall be convened by the Director of Finance.

44516. All members of the authority shall serve thereon without compensation as members of the authority.

44517. The authority shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it under this division.

44518. The authority shall maintain an office in the City of Sacramento.

44519. The authority may employ an executive director and any other persons as are necessary to enable it properly to perform the duties imposed upon it by this division. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

44520. (a) The authority shall, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, adopt all necessary rules and regulations to carry out its powers and duties under this division. The authority may call upon any board or department of the state government for aid and assistance in the preparation of plans and specifications and in the development of technology necessary to effectively control pollution.

(b) Notwithstanding subdivision (a), the authority, or any other agency implementing a small business or brownfield site financing assistance program pursuant to an interagency agreement with the authority, may adopt regulations relating to small business or brownfield site financing as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) Notwithstanding subdivision (a), the authority, or any other agency implementing a loan program pursuant to an interagency agreement with the authority, may adopt regulations relating to the loans and grants authorized under subdivision (g) of Section 44526 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the adopting authority or agency complies with that Chapter 3.5, as provided in subdivision (e) of Section 11346.1 of the Government Code.

44521. (a) The Attorney General shall be the legal counsel for the authority, but with the approval of the Attorney General, the authority may employ such legal counsel as in its judgment is necessary or advisable to enable it to carry out the duties and functions imposed upon it by this division, including the

employment of such bond counsel as may be deemed advisable in connection with the issuance and sale of bonds.

(b) The State Treasurer shall be the treasurer for the authority.

44522. The authority is authorized and empowered:

(a) To adopt an official seal.

(b) To sue and be sued in its own name.

(c) To do all things generally necessary or convenient to carry out its powers and the purposes under this division.

(d) To make temporary loans from those funds set aside for its administrative costs to state financing authorities or advisory commissions created by a statute which takes effect on or after January 1, 1981, and which designates the State Treasurer as the chairperson, such loans to be returned with interest as specified by Section 16314 of the Government Code.

44525. (a) The authority may charge reasonable application and project fees to reimburse the authority for costs incurred in administering applications for financing pursuant to this division and to support authority programs, including, but not limited to, the Capital Access Loan Program authorized by Article 8 (commencing with Section 44559, and loans, as authorized by subdivision (h) of Section 44526.

(b) This section shall become operative only if Assembly Bill 779 of the 1999-2000 Regular Session is enacted.

44525.5. (a) The authority may also charge reasonable application and project fees to reimburse the authority for costs incurred in administering applications for grants and loans authorized by subdivision (e) of Section 44526.

(b) This section shall not become operative if Senate Bill 1986 of the 1999-2000 Regular Session is enacted after Assembly Bill 779 of the 1999-2000 Regular Session and adds subdivision (g) to Section 44526.

44525.5. (a) The authority may also charge reasonable application and project fees to reimburse the authority for costs incurred in administering applications for loans authorized by subdivision (g) of Section 44526.

(b) This section shall become operative only if Senate Bill 1986 of the 1999-2000 Regular Session is enacted after Assembly Bill 779 of the 1999-2000 Regular Session and adds subdivision (g) to Section 44526.

44525.6. (a) Commencing in 2002, and annually thereafter, the authority shall submit a report to the Legislature regarding the loan and grant program described in subdivision (e) of Section 44526 describing the total amount of loans and grants awarded pursuant to subdivision (e) of Section 44526 in the previous calendar year, the amount of each loan or grant awarded, and a description of the programs awarded funding.

(b) This section shall not become operative if Senate Bill 1986 of the 1999-2000 Regular Session is enacted after Assembly Bill 779 of the 1999-2000 Regular Session and adds subdivision (g) to Section 44526.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

44525.6. (a) Commencing in 2002, and annually thereafter, the authority shall submit a report to the Legislature regarding the loan program described in subdivision (g) of Section 44526 describing the total amount of loans issued pursuant to subdivision (g) of Section 44526 in the previous calendar year, the amount of each loan issued, and a description of the programs awarded funding.

(b) This section shall become operative only if Senate Bill 1986 of the 1999-2000 Regular Session is enacted after Assembly Bill 779 of the 1999-2000 Regular Session and adds subdivision (g) to Section 44526.

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

44525.7. (a) Commencing in 2002, and annually thereafter, the authority shall submit a report to the Legislature regarding the loan program described in subdivision (g) of Section 44526.

(b) This section shall not become operative if Assembly Bill 779 of the 1999-2000 Regular Session is enacted.

44525.7. (a) Commencing in 2002, and annually thereafter, the authority shall submit a report to the Legislature regarding the loan program described in subdivision (h) of Section 44526.

(b) This section shall become operative only if Assembly Bill 779 of the 1999-2000 Regular Session is enacted.

44526. The authority is authorized: (a) To determine the location and character of any project to be financed under the provisions of this division, to lend financial assistance to any participating party, to construct, reconstruct, renovate, replace, lease, as lessor or lessee, and regulate the same, and to enter into contracts for the sale of any pollution control facilities, including installment sales or sales under conditional sales contracts, and to make loans to participating parties to lend financial assistance in the acquisition, construction, or installation of a project.

(b) To issue bonds, notes, bond anticipation notes, and other obligations of the authority for any of its corporate purposes, and to fund or refund the same, all as provided in this division.

(c) To fix fees and charges for pollution control facilities, and to revise from time to time those fees and charges, and to collect rates, rents, fees, and charges for the use of and for any facilities or services furnished, or to be furnished, by a project or any part thereof and to contract with any person, partnership,

association, corporation, or public agency with respect thereto, and to fix the terms and conditions upon which any pollution control facilities may be sold or disposed of, whether upon installment sales contracts or otherwise.

(d) To employ and fix the compensation of bond counsel, financial consultants, and advisers as may be necessary in its judgment in connection with the issuance and sale of any bonds, notes, bond anticipation notes, or other obligations of the authority; to contract for engineering, architectural, accounting, or other services of appropriate agencies as may be necessary in the judgment of the authority for the successful development of any project; and to pay the reasonable costs of consulting engineers, architects, accountants, and construction experts employed by any participating party if, in the judgment of the authority, those services are necessary to the successful development of any project, and those services are not obtainable from any public agency.

(e) To receive and accept loans, contributions, or grants, in money, property, labor, or other things of value, for, or in aid of, the authority in carrying out the purposes of this division, from any source including, but not limited to, the federal government, the state, or any agency of the state, any local government or agency thereof, or any nonprofit or for-profit private entity or individual.

(f) To apply for, and accept, subventions, grants, loans, advances, and contributions from any source, of money, property, labor, or other things of value. The sources may include, but are not limited to, bond proceeds, dedicated taxes, state appropriations, federal appropriations, federal grant and loan funds, public and private sector retirement system funds, and proceeds of loans from the Pooled Money Investment Account.

(g) To provide grants and loans to any city or county deemed eligible by the authority. The grants and loans shall be used to assist California neighborhoods suffering from high poverty or unemployment levels, or from low-income levels, to assist cities and counties in developing and implementing growth policies and programs that reduce pollution hazards and the degradation of the environment, or to promote infill development to revitalize these communities. The grants and loans may be used to employ the technical expertise necessary to identify, assess, and complete applications for state, federal, and private economic assistance programs that develop and implement sustainable development and sound environmental policies and programs. Priority shall be given to applicants lacking the resources to identify, assess, and complete applications for economic assistance, and for those lacking the resources to develop and implement sustainable growth and other sound environmental policies and programs. The authority shall fund these grants and loans from any funds available to the authority or set aside for the authority's administrative expenses. The authority may not award more than five million dollars (\$5,000,000) in grants and loans pursuant to this subdivision. This subdivision shall remain operative only until January 1, 2007, and as of that date is no longer operative, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

(h) (1) To provide a loan directly, or indirectly through one or more public or private sector intermediaries, to any city, county, school district, redevelopment

agency, financial institution, as defined in subdivision (d) of Section 44559.1, for-profit or not-for-profit organization, or participating party, as defined in Section 44506, to assist in financing, among other things, the costs of performing or obtaining brownfield site assessments, remedial action plans and reports, technical assistance, the cleanup, remediation, or development of brownfield sites, or any other similar or related costs, subject to all applicable federal, state, and local laws, procedures, and regulations.

(2) The authority shall establish standards and criteria to ensure that a recipient of direct or indirect financing for cleanup or remediation pursuant to this subdivision has the necessary financial resources and expertise to successfully and appropriately complete the cleanup or remediation of the property. (3) The authority may pay all, or a portion, of the associated program development and implementation costs of any public or private sector intermediaries through which a loan is made. A loan authorized by this subdivision is subject to both of the following:

(A) A loan may be used in connection with a brownfield site prior to a determination of whether the site has a reasonable potential for economically beneficial reuse.

(B) A loan may be made upon the terms determined by the authority and may provide for any rate of interest or no interest.

(4) The authority shall fund a loan made pursuant to this subdivision from any funds available to it, from any funds set aside for the authority's administrative expenses, or from any small business assistance fund established for these purposes pursuant to Section 44548.

(5) The authority may waive repayment of all, or a portion, of any loan made pursuant to this subdivision upon conditions to be determined by the authority, and the amount so waived shall be deemed a grant to the recipient.

(i) To do all things generally necessary or convenient to carry out the purposes of this division.

44530. All expenses incurred in carrying out the provisions of this division shall be payable solely from funds provided under the authority of this division and no liability or obligation shall be imposed upon the State of California and, except as provided in Section 44547, none shall be incurred by the authority beyond the extent to which moneys shall have been provided under the provisions of this division. Under no circumstances shall the authority create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than the moneys provided under the provisions of this division.

44531. (a) All projects shall be constructed or completed subject to the rules and regulations of the authority.

(b) The authority is authorized to acquire, by deed, purchase, lease, contract, gift, devise, or otherwise, any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands located within this state necessary or convenient for the construction or operation of a project, upon

such terms and conditions as it deems advisable, and to lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objects and purposes of this division. Nothing in this division shall authorize the authority to exercise the power of eminent domain.

44532. When the principal of and interest on bonds of the authority issued to finance the cost of a particular project for a participating party, including any refunding bonds issued to refund and refinance such bonds, shall have been fully paid and retired or when adequate provision shall have been made for the payment and retirement of the same, and all other conditions of the resolution, indenture, or agreement authorizing and securing the same shall have been satisfied and the lien of such resolution, indenture, or agreement shall have been released in accordance with the provisions thereof, the authority is authorized, upon such terms and conditions as may be prescribed by the authority, to execute such deeds and conveyances as are necessary or required to convey title to such project to such participating party.

44533. (a) No project relating to the improvement of air or water quality or solid waste control or related to the remediation of property contaminated by a release of hazardous materials shall be eligible for financing under this division unless, prior to the issuance of bonds or notes, a local, regional, state, or federal environmental authority exercising jurisdiction over the project certifies that the project, as designed, will further compliance with federal, state, or local pollution control standards and requirements. Within 60 days of the receipt of a written request for that certification by either the authority or a participating party, the local, regional, state, or federal authority shall issue a written certificate to that effect if, in fact, the project as designed, is in furtherance of those purposes. The certification requirements of this subdivision may be waived by the authority, at the request of the participating party, if that certification is not necessary to qualify the bonds or notes for tax-exempt status under federal laws and regulations.

(b) No certification issued pursuant to subdivision (a) shall be admissible in evidence, constitute an admission, or bind any certifying authority in any proceeding in which the compliance of a participating party's facilities with any applicable pollution control, land use, zoning, or other similar law is an issue or in any application or proceeding for a permit to locate or construct facilities.

44534. (a) The authority shall take initial action on any completed application for financing submitted to it by a participating party at the next meeting of the authority which occurs more than 10 days following receipt of such application.

(b) The authority shall take final action with regard to the issuance of bonds or notes to lend financial assistance to a participating party within 60 days of receipt by the authority of a request from such participating party for the issuance of bonds or notes. A request from a participating party for final approval of the issuance of bonds or notes shall be accompanied by evidence of fulfillment of

all conditions to the issuance of such bonds or notes and by copies of forms of all principal legal documents to be approved by the authority, which must be satisfactory in form and substance to the Attorney General.

(c) The authority may give final approval for the issuance of bonds or notes upon such terms as it deems necessary and desirable. The authority may, in its discretion, give final approval to the issuance of bonds or notes prior to receipt of the certificate described in subdivision (b) of Section 44533.

44535. (a) The authority may separately approve financing for projects, the purpose of which is to prevent, remediate, or reduce environmental pollution resulting from the disposal of solid, hazardous, or liquid waste.

(b) The following projects shall be considered for financing:

(1) Projects utilizing recognized resource recovery or energy conversion processes.

(2) Projects utilizing new technologies or processes for resource recovery or energy conversion.

(3) Projects utilizing technologies designed to reduce the level of pollutants found in water.

(4) Recycled water facilities.

(5) Water main replacements.

(6) Water filtration facilities.

(7) Projects for the disposal of agricultural wastes.

(8) Soil excavation and removal, and construction, operation, and maintenance of systems that extract, contain, or treat groundwater, soil vapor, gas, or leachate.

(9) Other projects for the reduction or remediation of environmental pollution resulting from the disposal of solid, hazardous, or liquid waste, including, but not limited to, payment of the cost to remediate environmental pollution by a party that is a de minimis responsible party, in accordance with the standards for an expedited final settlement specified in subdivision (g) of Section 9622 of Title 42 of the United States Code, or a de micromis responsible party, under the regulations adopted by the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(c) The projects specified in subdivision (b) may include elements that provide for new refuse removal vehicles, transfer stations, resource recovery or energy conversion plants, source separation, or any solid or liquid waste disposal facilities involved in resource recovery systems. "Solid, hazardous, or liquid waste disposal facilities" means any property, or portion thereof, used for the collection, storage, treatment, utilization, processing, or final disposal of solid, hazardous, or liquid waste in resource recovery systems.

44536. The authority may approve financing for projects which finance pollution control equipment for a facility which is not owned by the applicant if such equipment is a component of an approved trade off package to achieve air quality standards.

44537. Prior to the beginning of each calendar quarter, the authority shall obtain from the appropriate state control agencies a list of the names and addresses of those business associations, corporations, or individuals which have been required, by a specified deadline, to correct pollution problems caused by existing facilities. The authority shall notify such business associations, corporations, or individuals of its programs for financing pollution control facilities. In addition, the authority shall take all reasonable steps to publicize its programs so that eligible applicants may be aware of them.

44537.5. The authority shall provide the maximum opportunity for the use of the authority's financing by individuals, businesses engaged in agricultural operations, and small businesses or corporations by providing information, assistance, and coordination to facilitate financing for small projects and other financing that benefits the environment and the economy of the state, including financing for projects for the disposal of agricultural wastes, with special attention to the needs of businesses that do not meet standard commercial lending requirements but provide public benefits, such as job creation or retention and the redevelopment for economically beneficial uses of contaminated properties. The authority shall assist with the financing of the costs of, among other things, assessment of, remedial planning and reporting for, technical assistance for, and the cleanup, remediation, or development of, brownfield sites, and any other similar or related costs, by providing the loans authorized pursuant to subdivision (h) of Section 44526. The authority shall provide the maximum opportunity to provide loan funding pursuant to subdivision (h) of Section 44526 to assist brownfield site financing assistance programs where the sites are located in economically struggling communities suffering from a low level of income or a high level of poverty or unemployment.

44538. The authority, no later than March 31 of each year, shall submit to the Legislature and to the Treasurer a report of its activities for the preceding calendar year ended December 31. The report shall include (1) a listing of applications received, (2) a listing of applications accepted for financing, (3) specification of bonds sold, interest rates thereon, and whether bond sales were pursuant to public bid or were negotiated, (4) specification of the amount of bonds authorized but currently unsold, (5) a projection of the authority's needs and requirements for the coming year, and (6) a report of revenues and expenditures for the preceding fiscal year. The Treasurer shall review the report and advise the Legislature in writing of any problems and of any impact on the state's credit rating and the state's ability to borrow funds for state programs.

44539. An applicant for financing for a project involving a waste water treatment plan shall provide evidence satisfactory to the State Water Resources Control Board that the waste water treatment facilities will be operated and maintained by competent personnel. Such evidence shall include, but not be limited to, a

description of operating procedures, organizational structure, minimum personnel requirements and training program.

44540. The authority is authorized to incur indebtedness and to issue securities of any kind or class, and to renew the same, provided that all such indebtedness, howsoever evidenced, shall be payable solely from revenues of the authority.

44541. At such times as the authority desires to issue bonds, as defined in Section 44542, it shall adopt a resolution specifying the total amount of such bonds proposed to be issued.

44542. (a) The authority is authorized from time to time to issue its negotiable bonds, notes, debentures, or other securities (hereinafter collectively called "bonds") for any corporate purpose. Such bonds may be authorized, without limiting the generality of the foregoing, to finance a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties. In anticipation of the sale of such bonds as authorized by Section 44540, or as may be authorized pursuant to Section 44541, the authority may issue negotiable bond anticipation notes and may renew the same from time to time. Such bond anticipation notes may be paid from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. Notes and agreements relating thereto and bond anticipation notes, hereinafter collectively called notes, and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond, agreement relating thereto, and bond resolution of the authority may contain; except that such note or renewal thereof shall mature at such time not exceeding three years from the date of issue of the original note.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes, or other obligation shall be general obligations of the authority payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds, notes, or other obligations pledging any particular revenues or moneys and subject to any agreements with any participating party. Notwithstanding that such bonds, notes, or other obligations may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds, notes or other obligations for registration.

(c) The bonds may be issued as serial bonds or as term bonds, or the authority in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as

such resolution or resolutions may provide. The bonds or notes shall be sold by the State Treasurer within 60 days of receipt of a certified copy of the authority's resolution authorizing the sale of the bonds; provided, that the authority, at its discretion, may adopt a resolution extending such 60-day period. Such sales may be at public or private sale, and for such price or prices and on such terms and conditions, as the authority shall determine after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of such bonds or notes. Pending preparation of the definitive bonds, the State Treasurer may issue interim receipts, certificates, or temporary bonds which shall be exchanged for such definitive bonds. The State Treasurer may sell any bonds, notes, or other evidence of indebtedness at a price below the par value thereof; provided, however, that the discount on any security so sold shall not exceed 6 percent of the par value thereof.

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to:

(1) Pledging the full faith and credit of the authority or pledging all or any part of the revenues of any project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, or other moneys of the authority, to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist.

(2) The rentals, fees, purchase payments, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(3) The setting aside of reserves or sinking funds, and the regulation and disposition thereof.

(4) Limitations on the right of the authority or its agent to restrict and regulate the use of the project or projects to be financed out of the proceeds of the bonds or any particular issue of bonds.

(5) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds.

(6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds.

(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(8) Limitations on expenditures for operating, administrative, or other expenses of the authority.

(9) Defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

(10) The mortgaging of any project and the site thereof for the purpose of securing the bondholders.

(11) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

(12) Procedures for the selection of projects to be financed with the proceeds of the bonds authorized by the resolution if the bonds are to be sold in advance of the designation of the projects and participating parties to receive such financing.

(e) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds or notes. The authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with bondholders.

44543. In the discretion of the authority, any bonds issued under the provisions of this division may be secured by a trust agreement by and between the authority and a trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of such bonds. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company doing business under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. Notwithstanding any other provision of law, the State Treasurer shall not be deemed to have a conflict of interest by reason of acting as trustee pursuant to this division. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

44544. Bonds issued under the provisions of this division shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the authority, or a pledge of the faith and credit of the state or of any such political subdivision, other than the authority, but shall be payable solely from the funds herein provided therefor. All such bonds shall contain on the face thereof a statement to the following effect: "Neither the faith and credit

nor the taxing power of the State of California or any local agency is pledged to the payment of the principal of or interest on this bond." The issuance of bonds under the provisions of this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section contained shall prevent nor be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

44545. (a) The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds, notes, or other securities of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof.

(b) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds, notes, or other securities may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the board.

(c) Pending such use, any such escrowed proceeds may be invested and reinvested by the State Treasurer in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) The portion of the proceeds of any such bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project may be invested and reinvested by the State Treasurer in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost. The interest, income and profits, if any, earned or realized on such investment may be applied

to the payment of all or any part of such cost or may be used by the authority in any lawful manner.

(e) All such bonds shall be subject to the provisions of this division in the same manner and to the same extent as other bonds issued pursuant to this division.

44546. If, in the opinion of the State Treasurer, any bonds issued by the authority under the provisions of this division are adequately secured and the revenues and other funds applicable to the payments of the bonds are, or upon the acquisition, construction, or improvement of the project or projects which such bonds finance, will be sufficient to pay the principal of and interest on such bonds, then the State Treasurer shall certify that such bonds are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, savings and loan associations, and investment companies, for executors, administrators, guardians, conservators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds, and that such bonds are securities which may properly and legally be deposited with, and received by, any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including deposits to secure public funds.

44547. No liability shall be incurred by the authority beyond the extent to which moneys have been provided under this division; except that for the purposes of meeting the necessary expenses of initial organization and operation until such date as the authority derives revenues or proceeds from bonds or notes as provided under this division, the authority may borrow money as needed for such expenses from any funds available to the authority, including the General Fund in the State Treasury. Such borrowed moneys shall be repaid with interest within a reasonable time after the authority receives revenues or proceeds from bonds or notes as provided under this division.

44548. (a) (1) Subject to any prior contractual obligations to any of its bondholders, the authority may establish one or more small business assistance funds in order to do any of the following:

(A) Assist small businesses to achieve financing of pollution control facilities.

(B) Assist with the financing of the costs of, among other things, assessment, remedial planning and reporting, technical assistance, cleanup, remediation, and development of brownfield sites, and with other similar or related costs, by providing loans pursuant to subdivision (h) of Section 44526.

(C) Fund a capital access program for small businesses pursuant to Article 8 (commencing with Section 44559).

(2) For the purpose of establishing and maintaining small business assistance funds as it determines to be necessary or desirable to secure its bonds or any issuance thereof or for other authorized purposes, the authority, pursuant to its contracts with participating parties, may levy fees or other charges on, or require

deposits from, participating parties receiving financing for a project under this division. The total amount of these fees, charges, and deposits with respect to a single issue of bonds shall not exceed 3 percent of the principal amount of that issue of bonds.

(3) Prior to levying any fees or charges or requiring deposits, the authority shall adopt regulations for the operation of the small business assistance funds, the amounts and any payment schedule for the fees, charges, or deposits, eligibility standards for small businesses desiring to use or benefit from the small business assistance funds, and any other matters the authority determines to be necessary for the establishment and maintenance of small business assistance funds. The regulations may provide for differential fees from participating parties based upon the size of a project financed by the authority or other factors determined to be relevant by the authority, and the regulations may restrict any benefits to those eligible small businesses specified in the regulations.

(4) The authority may transfer any funds available to it or set aside for its administrative expenses to any small business assistance fund established under this section.

(b) (1) The forms of financial assistance that the authority may provide under this section include, but are not limited to all of the following: (A) Payments to reduce, but not eliminate, the interest rate on loans. (B) Payments of part or all of the cost of acquiring letters of credit. (C) Payments of part or all of the cost of acquiring insurance. (D) Payments of part or all of the cost of acquiring guarantees. (E) Payments of part or all of the cost of acquiring other forms of credit support. (F) Payments of part or all of the authority's expenses in issuing revenue bonds or providing other assistance.

(2) The authority may also pledge any small business assistance fund, on an individual or pooled basis, to repay, directly or indirectly, the principal of, or interest or premium on, any issue of bonds of the authority or any loan made or acquired pursuant to this section.

(3) The authority may also use moneys in a small business assistance fund to assist in the financing of the costs of assessment of, remedial planning and reporting for, technical assistance for, and the cleanup, remediation or development of, brownfield sites, and of other similar or related costs, by providing loans, pursuant to, and under the terms permitted by, subdivision (h) of Section 44526.

(4) In addition to other purposes set forth in this section, the authority may use moneys in a small business assistance fund to make or acquire loans or guarantee commercial loans to participating parties eligible for assistance from those funds.

(5) Any moneys repaid or returned to the authority in connection with or as a result of any loan or financial assistance made pursuant to this section shall be deposited in the small business assistance fund from which the loan or assistance was originally provided.

(6) The authority may contract with qualified financial institutions, including, but not limited to, banks, investment and mortgage bankers, insurance companies,

sureties, and guarantors, to provide any necessary assistance in the granting of credit for these purposes.

(c) Each small business assistance fund established pursuant to this section shall be deposited in a special account that the Controller shall create. Notwithstanding any other provision of law, and subject to any requirements of federal tax law or regulations relative to maintaining the tax-exempt status of the obligations of the authority, all interest or other gains earned by investment or deposit of money in the special account pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code or pursuant to any other provision of law shall be credited to, and deposited in, the account.

(d) In carrying out this section, the authority shall participate with the air pollution control districts and air quality management districts in providing financial assistance in its lending programs.

44549. Any funds of the authority, including proceeds from the sale of bonds or notes issued after the effective date of this section, money set aside for the authority's administrative expenses, and small business assistance funds created under Section 44548, may be invested in any obligations of any state or local government meeting the requirements of subdivision (a) of Section 103 of the Internal Revenue Code of 1954 (26 U.S.C. Sec. 103 (a)) including mutual funds, trusts, and similar instruments representing a pool of obligations. The Treasurer may adopt regulations providing appropriate investment standards for these investments. If the Treasurer determines it to be necessary to assure compliance with federal tax laws or regulations, the authority may, notwithstanding any other provision of law, deposit funds received as fees from the issuance of its obligations, including small business assistance funds, with a bank or trust company acting on behalf of the authority. Notwithstanding any other provision of law, the authority may also make investments of moneys set aside for the authority's administrative expenses or in any small business assistance funds by making or purchasing interest-bearing loans to qualified small businesses which are to be assisted pursuant to Section 44548, or under terms and with such security as the authority determines to be appropriate.

44550. The authority may contract with any participating party for the construction of a project by such participating party. All such contracts for the construction of a project by a participating party shall provide that the participating party shall be responsible for the architectural and engineering design and for the construction and completion thereof subject to such standards for architectural and engineering design as may be established, and subject to such supervision as the authority deems necessary. The authority may agree to pay the cost of such project constructed by any participating party and to advance such costs from time to time in installments or otherwise as required by the contract for the construction thereof. Title to all such projects shall be vested in the authority subject to the terms of any lease thereof to the participating party or the rights of a participating party under any contract for the purchase of such

project including the payment of the purchase price under installment sales contracts.

44551. The authority may, as lessor or lessee, enter into leases and agreements with any participating party relating to the acquisition, construction, and installation of any project, including real property, buildings, equipment, and pollution control facilities of any kind or character. The terms and conditions of such leases may be as mutually agreed upon. Any such lease may provide the means or methods by which title shall vest in a participating party upon the termination of the lease and shall contain such other terms and conditions as the authority may determine. The authority is authorized to fix, revise, charge, and collect rates, rents, fees, and charges for each project. Such rates, rents, fees, and charges shall be fixed and adjusted in respect of the aggregate of rates, rents, fees, and charges from all projects so as to provide funds sufficient with other revenues and moneys available therefor, if any, to do all of the following:

(a) Pay the principal of and the interest on outstanding bonds, notes, or other evidences of indebtedness of the authority financing such project as the same shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, such bonds, notes, or other evidences of indebtedness. A sufficient amount of the revenues derived from a project may be set aside at such regular intervals as may be provided in such resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and interest on such bonds, notes, or other evidences of indebtedness as the same shall become due, and the redemption price or the purchase price of bonds, notes, or other evidences of indebtedness retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees, and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement nor any other agreement nor any lease by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking or other similar fund may be a fund for all bonds, notes, or other evidences of indebtedness of the authority financing projects of a particular participating party without distinction or priority of one over another; provided, that the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project or projects and for the bonds financing a particular project

or projects and may, additionally, permit and provide for the issuance of bonds having a subordinate lien in respect of the security herein authorized to other bonds, notes, or other evidences of indebtedness of the authority, and, in such case, the authority may create separate sinking or other similar funds in respect of such subordinate lien bonds, notes, or other evidences of indebtedness.

(c) Pay operating and administrative costs of the authority.

44552. The authority may enter into contracts of sale with any participating party covering any project financed by the authority. The purchase price pursuant to such contract of sale shall be sufficient to provide funds for all the purposes provided in Section 44551 and may be paid in installments, together with interest on the unpaid balance, or otherwise, as may be mutually agreed and set forth in such contract of sale. All payments received by the authority under any installment sales or conditional sales contract shall be applied by the authority substantially in the same manner as hereinabove provided in Section 44551 in the case of lease payments or rental charges received by the authority.

44552.5. (a) As an alternative to leasing or selling a project to a participating party, the authority may finance the acquisition, construction, or installation of a project by means of a loan to the participating party. The principal amount of the participating party's obligation as borrower shall be sufficient to provide funds for all the purposes specified in subdivisions (a), (b), and (c) of Section 44551 and may be paid in installments, together with interest on the unpaid balance, or otherwise as may be mutually agreed by the authority and the participating party and set forth in the loan agreement. Loans made pursuant to this section may be secured or unsecured in the discretion of the authority.

(b) The authority may also purchase or acquire from a financial institution part or all of a loan made to a participating party for a project meeting the requirements of this division. In the case of such a purchase, subdivision (a) of Section 44533 shall be deemed to have been complied with if the financial institution in making the loan is participating in a financing program of the authority pursuant to terms and conditions specified by the authority. The authority may by resolution waive the requirement of subdivision (a) of Section 44533 for the purchase of loans of small businesses eligible for assistance pursuant to Section 44548.

(c) Section 44550 shall not apply to projects constructed with moneys loaned pursuant to this section.

44553. All moneys received pursuant to the provisions of this division, whether as proceeds from the sale of bonds, notes, or other evidences of indebtedness or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this division. Any bank or trust company with which such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as the resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide.

44554. Any holder of bonds, notes, or other obligations issued under the provisions of this division or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, notes, or other obligations, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this division or by such resolution or trust agreement to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

44555. The exercise of the powers granted by this division shall be in all respects for the benefit of the people of this state, for their health and welfare, and protection of the state's environment. Any bonds, notes, or other obligations issued under the provisions of this division, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by municipalities and other political subdivisions of the state. Provided, however, that the preceding sentence shall not apply with respect to any bonds, notes or other obligations, or the income therefrom, for any period during which such bonds, notes or other obligations are held by (a) any participating party, (b) persons, organizations, trades, or businesses (whether or not incorporated, organized in this state, or affiliated with such participating party) owned or controlled, directly or indirectly, by such participating party, or (c) persons, organizations, trades or businesses (whether or not incorporated, organized in this state, or affiliated with such participating party (which own or control, directly or indirectly, such participating party).

44556. The authority shall not be required to pay any property taxes or assessments upon, or in respect to, a project or any property acquired by or for the authority under the provisions of this division or upon the income therefrom, so long as the authority holds title to such project or the property or facilities comprised in the project. The exemption of the authority from taxation of any project herein provided shall cease forthwith when title to such property is transferred from the authority to any participating party. The provisions of this section shall not exempt any participating party from taxation with respect to any project, or the property or facilities comprised in any project, which may otherwise be applicable to such participating party.

44557. Subject to Section 44562, the existence of the authority may be terminated at any time by the Legislature. Upon dissolution of the authority, the title to all properties owned by it shall vest in and become the property of the State of California and shall not inure to the benefit of any private party.

44559. (a) The Legislature finds and declares that small businesses are responsible for a significant amount of environmental emissions in the state, but are less able than larger businesses to afford the investment in new equipment or process modifications needed to comply with environmental regulations, with regard to controlling emissions, preventing the creation of pollutants, contaminants, or waste products, and remediating contamination of properties with a reasonable potential for economically beneficial reuse. Additionally, small businesses faced with financial pressures will be likely to reduce expenditures to achieve environmental compliance. Better access to capital will allow small businesses to more easily comply with environmental mandates, and to remediate contamination of properties with a reasonable potential of economically beneficial reuse, and to succeed economically, generating additional revenue to state and local governments that can be used for environmental improvements, all to the benefit of all the residents of the state.

(b) The Legislature also finds and declares that it is in the best interest of the state to expand the Capital Access Loan Program for small business regardless of whether the operations of the small business affect the environment, and to permit business loans to be included in the program for small businesses whose operations do not, necessarily, affect the environment. Small businesses have difficulty gaining access to capital for startup and expansion purposes. Small businesses owned by minorities and women have special capital access difficulties. In addition, small businesses operating in areas affected by military base closures are disadvantaged by limited access to capital. The Legislature finds that improving access to capital for these small businesses will spur investment, create jobs, expand economic opportunities, assist in the recovery of communities affected by defense and aerospace losses, assist in the recovery of neighborhoods and communities affected by contaminated properties that are not being used for economically beneficial purposes but which could be so used if the contamination was remediated, and help sustain and strengthen economic recovery in California.

44559.1. As used in this article, unless the context requires otherwise:

- (a) "Authority" means the California Pollution Control Financing Authority.
- (b) "California Capital Access Fund" means a fund created within the authority to be used for purposes of the program.
- (c) "Executive Director" means the Executive Director of the California Pollution Control Financing Authority.
- (d) (1) "Financial institution" means a federal- or state-chartered bank, savings association, credit union, not-for-profit community development financial institution certified under Part 1805 (commencing with Section 1805.100) of Chapter XVIII of Title 12 of the Code of Federal Regulations, or a consortium of these entities. A consortium of those entities may include a nonfinancial corporation, if the percentage of capitalization by all nonfinancial corporations in the consortium does not exceed 49 percent.
- (2) "Financial institution" also includes a lending institution that has executed a participation agreement with the Small Business Administration under the

guaranteed loan program pursuant to Part 120 (commencing with Section 120.1) of Chapter I of Title 13 of the Code of Federal Regulations and meets the requirements of Section 120.410 of Chapter I of Title 13 of the Code of Federal Regulations, and a small business investment company licensed pursuant to Part 107 (commencing with Section 107.20) of Chapter I of Title 13 of the Code of Federal Regulations.

(3) A financial institution described in paragraph (2) shall be domiciled or have its principal office in the State of California.

(e) "Loss reserve account" means an account in the State Treasury or any financial institution that is established and maintained by the authority for the benefit of a financial institution participating in the Capital Access Loan Program established pursuant to this article for the purposes of the following: (1) Depositing all required fees paid by the participating financial institution and the qualified business. (2) Depositing contributions made by the state and, if applicable, the federal government or other sources. (3) Covering losses on enrolled qualified loans sustained by the participating financial institution by disbursing funds accumulated in the loss reserve account.

(f) "Participating financial institution" means a financial institution that has been approved by the authority to enroll qualified loans in the program and has agreed to all terms and conditions set forth in this article and as may be required by any applicable federal law providing matching funding.

(g) "Passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rental, but does not include any of the following: (1) The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate. (2) The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

(h) "Program" means the Capital Access Loan Program created pursuant to this article.

(i) "Qualified business" means a small business concern that meets both of the following criteria, regardless of whether the small business concern has operations that affect the environment: (1) It is a corporation, partnership, cooperative, or other entity, whether that entity is a nonprofit entity or an entity established for profit, that is authorized to conduct business in the state. (2) It has its primary business location within the boundaries of the state.

(j) (1) "Qualified loan" means a loan or a portion of a loan made by a participating financial institution to a qualified business for any business activity that has its primary economic effect in California. A qualified loan may be made in the form of a line of credit, in which case the participating financial institution shall specify the amount of the line of credit to be covered under the program, which may be equal to the maximum commitment under the line of credit or an amount that is less than that maximum commitment. A qualified loan made under the program may be made with the interest rates, fees, and other terms and conditions agreed upon by the participating financial institution and the borrower.

(2) "Qualified loan" does not include any of the following: (A) A loan for the construction or purchase of residential housing. (B) A loan to finance passive real estate ownership. (C) A loan for the refinancing of an existing loan when and to the extent that the outstanding balance is not increased. (D) A loan, the proceeds of which will be used in any manner that could cause the interest on any bonds previously issued by the authority to become subject to federal income tax.

(k) "Severely affected community" means any area classified as an enterprise zone pursuant to the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), any area, as designated by the executive director, contiguous to the boundaries of a military base designated for closure pursuant to Section 2687 of Title 10 of the United States Code, as amended, and any other comparable economically distressed geographic area so designated by the executive director from time to time.

(l) "Small Business Assistance Fund" means a fund created within the authority pursuant to Section 44548.

(m) "Small business concern" has the same meaning as in Section 632 of Title 15 of the United States Code, or as otherwise provided in regulations of the authority.

44559.2. (a) The authority may contract with any financial institution for the purpose of allowing the financial institution to participate in the Capital Access Loan Program established by this article.

(b) For purposes of this section, the authority may contract with participating financial institutions and shall utilize a standard form of contract that is reviewed and approved by the Department of General Services. The standard form of contract shall provide for all of the following:

(1) The creation of a loss reserve account by the authority for the benefit of the financial institution.

(2) The financial institution, qualified business, and the authority will deposit moneys to the credit of the institution's loss reserve account when the financial institution makes a qualified loan to a qualified business.

(3) The liability of the state and the authority to the financial institution under the contract is limited to the amount of money credited to the loss reserve account of the institution.

(4) The financial institution shall provide the information that the authority may require, including financial information that is identifiable with, or identifiable from the financial records of a particular customer who is the recipient of a qualified loan. In addition to any other information that the authority may require, the financial institution shall provide the complete Standard Industrial Classification (SIC) code for the qualified business and information that provides the precise geographic location of both the qualified business and the borrower, if different.

(5) The financial institution will file a report with the executive director setting out a full description of the board of directors, including size, race, ethnicity, and gender.

(6) The participating financial institution will require each borrower, prior to receiving a loan under the program, to sign a written representation to the participating financial institution that the borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the loss reserve account established by the authority for the participating financial institution.

(7) Other terms that the authority may require for purposes of this article.

(c) A financial institution is not subject to laws restricting the disclosure of financial information when the financial institution provides information to the authority as required by paragraph (4) of subdivision (b).

(d) A credit union operating pursuant to a certificate issued under the California Credit Union Law (Division 5 (commencing with Section 14000) of the Financial Code) may participate in the Capital Access Loan Program established pursuant to this article only to the extent participation is in compliance with the California Credit Union Law. Nothing in this article shall be construed to limit the authority of the Commissioner of Financial Institutions to regulate credit unions subject to the commissioner's jurisdiction under the California Credit Union Law.

(e) Any individual, company, corporation, institution, utility, government agency, or other entity, including any consortium of these persons or entities, whether public or private, may participate in the Capital Access Loan Program established pursuant to this article by depositing funds in the California Capital Access Fund under those terms and conditions as may be deemed appropriate by the authority.

44559.3. (a) The authority shall establish a loss reserve account for each financial institution with which the authority makes a contract.

(b) The loss reserve account for a financial institution shall consist of moneys paid as fees by borrowers and the financial institution, moneys transferred to the account from a small business assistance fund, any matching federal moneys, and any other moneys provided by the authority or other source.

(c) Notwithstanding any other provision of law, the authority may establish and maintain loss reserve accounts with any financial institution under such policies as the authority may adopt.

(d) All moneys in a loss reserve account established pursuant to this article are the exclusive property of, and solely controlled by, the authority. Interest or income earned on moneys credited to the loss reserve account shall be deemed to be part of the loss reserve account. The authority may withdraw any time from the loss reserve account not more than 50 percent of all interest or other income that has been credited to the loss reserve account, except that subsequent to the first such withdrawal, the authority may not withdraw more than 50 percent of all interest or other income that has been credited to the loss reserve account since the time of the last such withdrawal. Any withdrawal made pursuant to this subdivision may be made prior to paying any claim and shall be used for the

sole purpose of offsetting administrative costs associated with carrying out the program.

(e) The combined amount to be deposited by the participating financial institution into any individual loss reserve account over a three-year period, in connection with any single borrower or any group of borrowers among which a common enterprise exists, shall be not more than one hundred thousand dollars (\$100,000).

44559.4. (a) When a financial institution participates in the Capital Access Loan Program established pursuant to this article, if the financial institution decides to enroll a qualified loan under the program in order to obtain the protection against loss provided by its loss reserve account, the financial institution shall notify the authority in writing on a form prescribed by the authority, within 10 days after the date on which the loan is made, of all of the following: (1) The disbursement of the loan. (2) The dollar amount of the loan enrolled. (3) The interest rate applicable to and the term of the loan. (4) The amount of the agreed upon premium.

(b) The financial institution may make a qualified loan to be enrolled under the program to an individual, or to a partnership or trust wholly owned or controlled by an individual, for the purpose of financing property that will be leased to a qualified business that is wholly owned by that individual. In that case, the property shall be treated as meeting the requirements of paragraph (1) of subdivision (f) of Section 44559.1.

(c) When making a qualified loan that will be enrolled under the program, the participating financial institution shall require the qualified business to which the loan is made to pay a fee of not less than 2 percent of the principal amount of the loan, but not more than 3 1/2 percent of such principal amount. The financial institution shall also pay a fee in an amount equal to the fee paid by the borrower. The financial institution shall deliver the fees collected under this subdivision to the authority for deposit in the loss reserve account for the institution. The financial institution may recover from the borrower the cost of its payments to the loss reserve account through the financing of the loan, upon the agreement of the financial institution and the borrower.

(d) When depositing fees collected under subdivision (c) to the credit of the loss reserve account for a participating financial institution, the authority shall do the following: (1) If no matching funds are available under a federal capital access program or other source, the authority shall transfer to the loss reserve account an amount that is not less than the total amount of the combined fees paid by the borrower and the participating financial institution. However, if the qualified business is located within a severely affected community, the authority shall transfer to the loss reserve account an amount equal to 150 percent of the total amount of the fees paid by the borrower and the participating financial institution. (2) If matching funds are available under a federal capital access program or other source, the authority shall transfer, on an immediate or deferred basis, to the loss reserve account the amount required by that federal program or other source. However, the total amount deposited into the loss reserve account shall

not be less than the amount which would have been deposited in the absence of matching funds.

44559.5. (a) The authority shall establish procedures under which financial institutions participating in the program established pursuant to this article may submit claims for reimbursement for losses incurred as a result of qualified loan defaults. A participating financial institution that charges off all or part of an enrolled loan to the loss reserve account may file a claim for reimbursement with the authority if both of the following conditions are met: (1) The claim occurs contemporaneously with the action of the participating financial institution to charge off all or part of the loan. (2) The charge off on an enrolled loan is made in a manner that is consistent with the participating financial institution's usual method for making determinations on business loans that are not enrolled loans.

(b) Costs for which a financial institution may be reimbursed from its loss reserve account include the amount of loan principal charged off, accrued interest on the principal, reasonable out-of-pocket expenses incurred in pursuing its collection efforts, including preservation of collateral, and any other related costs. Proper documentation of the expenses shall be presented at the time of the claim.

(c) If a participating financial institution files two or more claims contemporaneously, and there are insufficient funds in the reserve fund at that time to cover the entire amount of such claims, the institution may designate the order of priority in which the claims shall be paid.

(d) A financial institution may seek reimbursement of loan losses prior to the liquidation of collateral from defaulted loans. The financial institution shall repay its loss reserve account for any moneys received as reimbursement under this section if the financial institution recovers moneys from the borrower or from the liquidation of collateral for the defaulted loan, less any reasonable out-of-pocket expenses incurred in collection of such amount.

(e) In any case in which the payment of a claim under this section has fully covered a participating financial institution's loss on an enrolled loan, the participating financial institution shall assign to the authority, and to any applicable federal agency in the event federal matching funds are involved, any right, title, or interest to any collateral, security, or other right of recovery in connection with a loan made under the program.

(f) The executive director may adopt necessary rules for the authority to carry out its duties, functions, and powers relating to the program established pursuant to this article.

44559.6. The authority shall annually prepare a report to the Governor and the Legislature that describes the financial condition and programmatic results of the capital access loan program for small businesses authorized under this article.

44559.7. The authority may enter into agreements with commercial banks or other financial institutions, or with other agencies of the state, to provide

necessary assistance in carrying out the program authorized by this article, including origination and servicing of loans.

44559.8. Notwithstanding this article, the authority may facilitate the development of a secondary market for a loan enrolled in the capital access loan program by providing security for that loan, thereby increasing participation in the program by financial institutions and improving access to capital for small businesses. For purposes of this section, the actions that the authority may take include, but are not necessarily limited to, assigning all, or a portion of, any loss reserve account to any other entity in connection with providing security for a loan, including a trustee of a securitization trust, transferring an enrolled loan from a participating financial institution to a securitization trust, and assisting underwriters in marketing a loan to the secondary market.

44559.9. The authority shall expand the Capital Access Loan Program established by this article to include outreach to financial institutions that service agricultural interests in the state for the purpose of funding air pollution control measures.

44560. This division, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes hereof.

44561. (a) This division provides a complete, additional, and alternative method for the doing of the things authorized by this division, and is supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this division need not comply with any other law applicable to the issuance of bonds including, but not limited to, Division 13 (commencing with Section 21000) of the Public Resources Code. In the construction and acquisition of a project pursuant to this division, the authority need not comply with any other law applicable to the construction or acquisition of public works, except as specifically provided in this division. Pollution control facilities and projects may be acquired, constructed, completed, repaired, altered, improved, or extended, and bonds may be issued for any of those purposes under this division, notwithstanding that any other law may provide for the acquisition, construction, completion, repair, alteration, improvement, or extension of like pollution control facilities or for the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law.

(b) Except as provided in subdivision (a), the financing of a project pursuant to this part shall not exempt a project from any requirement of law which otherwise would be applicable to the project. 44562. The State of California does hereby pledge to and agree with the holders of any obligations issued under this division, and with those parties who may enter into contracts with the authority pursuant to the provisions of this division, that the state will not limit or alter the rights hereby vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part

of the authority, provided nothing herein contained shall preclude such limitation or alteration if and when adequate provision shall be made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority. The authority as agent for the state is authorized to include this pledge and undertaking for the state in such obligations or contracts.

44563. To the extent that the provisions of this division, with respect to the financing of pollution control facilities, are inconsistent with the provisions of any general statute or special act or parts thereof, with respect to the financing of pollution control facilities, the provisions of this division shall be deemed controlling.